

[First Reprint]

**SENATE, No. 2655**

---

**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

---

INTRODUCED JUNE 12, 2003

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator BARBARA BUONO**

**District 18 (Middlesex)**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Camden)**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Mercer)**

**Co-Sponsored by:**

**Senator Baer and Assemblywoman Heck**

**SYNOPSIS**

Requires DYFS to provide unified child care agencies evaluating homes of prospective approved home providers with results of child abuse record information checks.

**CURRENT VERSION OF TEXT**

As reported by the Senate Health, Human Services and Senior Citizens Committee on June 23, 2003, with amendments.

**(Sponsorship Updated As Of: 7/1/2003)**

1 AN ACT concerning child abuse, amending P.L.1977, c.102 and  
2 supplementing Title 30 of the Revised Statutes.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read  
8 as follows:

9 1. a. All records of child abuse reports made pursuant to section 3  
10 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the  
11 Division of Youth and Family Services in investigating such reports  
12 including reports received pursuant to section 20 of P.L.1974, c.119  
13 (C.9:6-8.40), and all reports of findings forwarded to the central  
14 registry pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11) shall be  
15 kept confidential and may be disclosed only under the circumstances  
16 expressly authorized under subsections b., c., d., e. **[and]**, f. and g.  
17 herein. The division shall disclose information only as authorized  
18 under subsections b., c., d., e. **[and]**, f. and g. of this section that is  
19 relevant to the purpose for which the information is required,  
20 provided, however, that nothing may be disclosed which would likely  
21 endanger the life, safety, or physical or emotional well-being of a child  
22 or the life or safety of any other person or which may compromise the  
23 integrity of a division investigation or a civil or criminal investigation  
24 or judicial proceeding. If the division denies access to specific  
25 information on this basis, the requesting entity may seek disclosure  
26 through the Chancery Division of the Superior Court. This section  
27 shall not be construed to prohibit disclosure pursuant to paragraphs  
28 (2) and (7) of subsection b. of this section.

29 Nothing in this act shall be construed to permit the disclosure of  
30 any information deemed confidential by federal or State law.

31 b. The division may and upon written request, shall release the  
32 records and reports referred to in subsection a., or parts thereof,  
33 consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.)  
34 to:

35 (1) A public or private child protective agency authorized to  
36 investigate a report of child abuse or neglect;

37 (2) A police or other law enforcement agency investigating a report  
38 of child abuse or neglect;

39 (3) A physician who has before him a child whom he reasonably  
40 suspects may be abused or neglected or an authorized member of the  
41 staff of a duly designated regional child abuse diagnostic and treatment

**EXPLANATION** - Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SHH committee amendments adopted June 23, 2003.

1 center which is involved with a particular child who is the subject of  
2 the request;

3 (4) A physician, a hospital director or his designate, a police officer  
4 or other person authorized to place a child in protective custody when  
5 such person has before him a child whom he reasonably suspects may  
6 be abused or neglected and requires the information in order to  
7 determine whether to place the child in protective custody;

8 (5) An agency, whether public or private, including any other  
9 division or unit in the Department of Human Services, authorized to  
10 care for, treat, or supervise a child who is the subject of a child abuse  
11 report, or a parent, guardian or other person who is responsible for the  
12 child's welfare, or both, when the information is needed in connection  
13 with the provision of care, treatment, or supervision to such child or  
14 such parent, guardian or other person;

15 (6) A court or the Office of Administrative Law, upon its finding  
16 that access to such records may be necessary for determination of an  
17 issue before it, and such records may be disclosed by the court or the  
18 Office of Administrative Law in whole or in part to the law guardian,  
19 attorney or other appropriate person upon a finding that such further  
20 disclosure is necessary for determination of an issue before the court  
21 or the Office of Administrative Law;

22 (7) A grand jury upon its determination that access to such records  
23 is necessary in the conduct of its official business;

24 (8) Any appropriate State legislative committee acting in the  
25 course of its official functions, provided, however, that no names or  
26 other information identifying persons named in the report shall be  
27 made available to the legislative committee unless it is absolutely  
28 essential to the legislative purpose;

29 (9) (Deleted by amendment, P.L.1997, c.175).

30 (10) A family day care sponsoring organization for the purpose of  
31 providing information on child abuse or neglect allegations involving  
32 prospective or current providers or household members pursuant to  
33 P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as necessary, for use in  
34 administrative appeals related to information obtained through a  
35 central registry search;

36 (11) The Victims of Crime Compensation Board, for the purpose  
37 of providing services available pursuant to the "Criminal Injuries  
38 Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to  
39 a child victim who is the subject of such report;

40 (12) Any person appealing a division service or status action or a  
41 substantiated finding of child abuse or neglect and his attorney or  
42 authorized lay representative upon a determination by the division or  
43 the presiding Administrative Law Judge that such disclosure is  
44 necessary for a determination of the issue on appeal;

45 (13) Any person or entity mandated by statute to consider child  
46 abuse or neglect information when conducting a background check or

1 employment-related screening of an individual employed by or seeking  
2 employment with an agency or organization providing services to  
3 children;

4 (14) Any person or entity conducting a disciplinary, administrative  
5 or judicial proceeding to determine terms of employment or continued  
6 employment of an officer, employee, or volunteer with an agency or  
7 organization providing services for children. The information may be  
8 disclosed in whole or in part to the appellant or other appropriate  
9 person only upon a determination by the person or entity conducting  
10 the proceeding that the disclosure is necessary to make a  
11 determination;

12 (15) The members of a county multi-disciplinary team, established  
13 in accordance with State guidelines, for the purpose of coordinating  
14 the activities of agencies handling alleged cases of child abuse and  
15 neglect;

16 (16) A person being evaluated by the division or the court as a  
17 potential care-giver to determine whether that person is willing and  
18 able to provide the care and support required by the child;

19 (17) The legal counsel of a child, parent or guardian, whether  
20 court-appointed or retained, when information is needed to discuss the  
21 case with the division in order to make decisions relating to or  
22 concerning the child;

23 (18) A person who has filed a report of suspected child abuse or  
24 neglect for the purpose of providing that person with only the  
25 disposition of the investigation;

26 (19) A parent or legal guardian when the information is needed in  
27 a division matter in which that parent or guardian is directly involved.  
28 The information may be released only to the extent necessary for the  
29 requesting parent or guardian to discuss services or the basis for the  
30 division's involvement or to develop, discuss, or implement a case plan  
31 for the child;

32 (20) A federal, State or local government entity, to the extent  
33 necessary for such entity to carry out its responsibilities under law to  
34 protect children from abuse and neglect;

35 (21) Citizen review panels designated by the State in compliance  
36 with the federal "Child Abuse Prevention and Treatment Act  
37 Amendments of 1996," Pub.L.104-235;

38 (22) The Child Fatality and Near Fatality Review Board established  
39 pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.).

40 Any individual, agency, board, court, grand jury, legislative  
41 committee, or other entity which receives from the division the records  
42 and reports referred to in subsection a., shall keep such records and  
43 reports, or parts thereof, confidential and shall not disclose such  
44 records and reports or parts thereof except as authorized by law.

45 c. The division may share information with a child who is the  
46 subject of a child abuse or neglect report, as appropriate to the child's

1 age or condition, to enable the child to understand the basis for the  
2 division's involvement and to participate in the development,  
3 discussion, or implementation of a case plan for the child.

4 d. The division may release the records and reports referred to in  
5 subsection a. of this section to any person engaged in a bona fide  
6 research purpose, provided, however, that no names or other  
7 information identifying persons named in the report shall be made  
8 available to the researcher unless it is absolutely essential to the  
9 research purpose and provided further that the approval of the  
10 Director of the Division of Youth and Family Services shall first have  
11 been obtained.

12 e. For incidents determined by the division to be substantiated, the  
13 division shall forward to the police or law enforcement agency in  
14 whose jurisdiction the child named in the report resides, the identity  
15 of persons alleged to have committed child abuse or neglect and of  
16 victims of child abuse or neglect, their addresses, the nature of the  
17 allegations, and other relevant information, including, but not limited  
18 to, prior reports of abuse or neglect and names of siblings obtained by  
19 the division during its investigation of a report of child abuse or  
20 neglect. The police or law enforcement agency shall keep such  
21 information confidential.

22 f. The division may disclose to the public the findings or  
23 information about a case of child abuse or neglect which has resulted  
24 in a child fatality or near fatality. Nothing may be disclosed which  
25 would likely endanger the life, safety, or physical or emotional  
26 well-being of a child or the life or safety of any other person or which  
27 may compromise the integrity of a division investigation or a civil or  
28 criminal investigation or judicial proceeding. If the division denies  
29 access to specific information on this basis, the requesting entity may  
30 seek disclosure of the information through the Chancery Division of  
31 the Superior Court. No information may be disclosed which is deemed  
32 confidential by federal or State law. The name or any other  
33 information identifying the person or entity who referred the child to  
34 the division shall not be released to the public.

35 g. The division shall release the records and reports referred to in  
36 subsection a. of this section to a unified child care agency contracted  
37 with the Department of Human Services pursuant to N.J.A.C.10:15-  
38 2.1 for the purpose of providing information on child abuse or neglect  
39 allegations involving a prospective approved home provider or any  
40 adult household member pursuant to section 2 of P.L. \_\_\_\_\_, c. \_\_\_\_\_  
41 (C. \_\_\_\_\_) (pending before the Legislature as this bill) to a child's  
42 parent when the information is necessary for the parent to make a  
43 decision concerning the placement of the child in an appropriate child  
44 care arrangement.

45 The division shall not release any information that would likely  
46 endanger the life, safety, or physical or emotional well-being of a child

1 or the life or safety of any other person.

2 (cf: P.L.1997, c.175, s.16)

3  
4 2. (New section) a. A unified child care agency contracted with  
5 the Department of Human Services pursuant to N.J.A.C.10:15-2.1,  
6 shall request that the Division of Youth and Family Services in the  
7 Department of Human Services conduct a child abuse record  
8 information check of the division's child abuse records, as promptly as  
9 possible, to determine if an incident of child abuse or neglect has been  
10 substantiated, pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11),  
11 against:

12 (1) a prospective approved home provider as defined in  
13 N.J.A.C.10:15-1.2 providing child care services under the "New Jersey  
14 Cares for Kids Program" established pursuant to N.J.A.C.10:15-5.1,  
15 or to a child whose parent is receiving assistance under the Work First  
16 New Jersey program established pursuant to P.L.1997, c.38  
17 (C.44:10-55 et seq.) or is employed but continues to receive  
18 supportive services pursuant to the provisions of section 5 of  
19 P.L.1997, c.13 (C.44:10-38); or

20 (2) any adult member of the prospective provider's household.

21 b. The division shall conduct the child abuse record information  
22 check only upon receipt of the prospective approved home provider's  
23 or any adult household member's written consent to the check. If the  
24 person refuses to provide his consent, the unified child care agency  
25 shall deny the prospective approved home provider's application to  
26 provide child care services.

27 c. If the division determines that an incident of child abuse or  
28 neglect by the prospective approved home provider or any adult  
29 member of the household has been substantiated, the division shall  
30 release the results of the child abuse record information check to the  
31 unified child care agency pursuant to subsection g. of section 1 of  
32 P.L.1977, c.102 (C.9:6-8.10a) and the agency shall deny the  
33 prospective approved home provider's application to provide child care  
34 services.

35 d. Before denying the prospective approved home provider's  
36 application to provide child care services, the unified child care agency  
37 shall give notice personally or by certified or registered mail to the last  
38 known address of the prospective approved home provider with return  
39 receipt requested, of the reasons why the application <sup>1</sup>[was] will be<sup>1</sup>  
40 denied. The notice shall afford the prospective approved home  
41 provider the opportunity to be heard and to contest the agency's  
42 action. The hearing shall be conducted in accordance with the  
43 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
44 seq.).

45 e. If a prospective approved home provider's application to provide  
46 child care services is denied, the unified child care agency shall notify

1 the parent of the child who would be eligible to receive such services,  
2 personally and in writing, of the reasons why the application was  
3 denied and the parent's right to select another provider. The parent  
4 shall keep such information confidential and shall not disclose the  
5 information except as authorized by law.

6  
7 3. (New section) Pursuant to the "Administrative Procedure Act,"  
8 P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Human  
9 Services shall adopt rules and regulations necessary to effectuate the  
10 purposes of this act, including but not limited to:

11 a. Procedures for a unified child care agency to follow in  
12 submitting a request for a child abuse record information check on a  
13 prospective approved home provider or any adult member of the  
14 prospective provider's household;

15 b. Implementation of an appeals process to be used in the case of  
16 <sup>1</sup>[the] a<sup>1</sup> denial of a prospective approved home provider's application  
17 to provide child care services based on a finding of substantiated child  
18 abuse or neglect; and

19 c. Establishment of time limits for conducting a child abuse record  
20 information check and providing a unified child care agency with the  
21 results of the check.

22  
23 4. This act shall take effect on the 180th day following enactment,  
24 but the Commissioner of Human Services may take such anticipatory  
25 administrative action in advance as shall be necessary for the  
26 implementation of the act.